

HEALTH AND SENIOR SERVICES

DIVISION OF SENIOR BENEFITS AND UTILIZATION MANAGEMENT

PHARMACEUTICAL ASSISTANCE TO THE AGED AND DISABLED (PAAD) ELIGIBILITY MANUAL

Responsibilities in the Application Renewal Process

Proposed Amendments: N.J.A.C. 8:83-2.1 and 5.6

Authorized By: Clifton R. Lacy, M.D., Commissioner, Department of Health and Senior Services

Authority: N.J.S.A. 30:4D-20 et seq.

Calendar Reference: See Summary below for explanation of exception to calendar requirements.

Proposal Number: PRN 2004-298.

Submit comments by October 15, 2004 to:

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A copy of the proposal is available for review at all offices of the Area Agencies on Aging, which are situated in all 21 counties.

The agency proposal follows:

Summary

The Commissioner of the Department of Health and Senior Services, pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., is responsible for adopting rules and regulations for the Pharmaceutical Assistance to the Aged and Disabled (PAAD) program. The Division of Senior Benefits and Utilization Management, Department of Health and Senior Services, is the agency responsible for the operation and administration of the PAAD program. The purpose of the PAAD program is to provide prescription discounts for certain elderly and disabled New Jersey residents.

The Federal Government enacted The Medicare Prescription Drug Discount Card and Transitional Assistance Program on December 8, 2003 as part of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003. Medicare will offer a discount card that provides a \$600.00 subsidy called Transitional Assistance for low-income seniors. It is the State of New Jersey which will provide its eligible seniors as seamless a coordination of benefits as possible between the State's Pharmaceutical Assistance Programs and the Federal Program. These proposed amendments would help offset costs by approximately \$90 million in the PAAD program. Under current rules, N.J.A.C. 8:83-5.6(c)4, beneficiaries are required to assign to PAAD any right to drug benefits to which they may be entitled under any other third party insurance or assistance plan.

These proposed amendments provide updated information concerning the administration of the PAAD program in coordination with the Medicare Prescription Discount Card and Transitional Assistance Program as part of the Medicare

Prescription Drug, Improvement, and Modernization Act of 2003. The proposed amendments supplement and expand the PAAD Prescription Program Manual.

Included in these amendments are definitions for “authorized representative,” “Medicare prescription drug discount card and transitional assistance program” and “transitional assistance.” “Authorized representative” means a person with legal authority to act on behalf of an individual in making decisions related to the individual’s enrollment and disenrollment in the Medicare prescription drug discount card and transitional assistance program.

“Medicare prescription drug discount card and transitional assistance program” means the program established under Section 1860D-31 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003. (Pub.L.108-173).

“Transitional assistance” means a subsidy that transitional assistance enrollees may apply toward the cost of covered discount card drugs.

Also included in these amendments is a description of the “opt-out” provisions, which require applicants who do not wish the PAAD program to act as their “authorized representative” to file a written “opt-out” letter with the program.

Because a 60-day comment period is provided for this notice of proposal, this notice is excepted from the rulemaking calendar requirements pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

There exists within the PAAD records approximately 196,619 potential persons who may be eligible for Medicare drug coverage under the Medicare Prescription Drug,

Improvement, and Modernization Act. If those eligible persons enroll in the Medicare Drug Program, they will reduce PAAD expenditures by having Medicare drug benefits be their primary coverage and PAAD benefits be their secondary coverage. Because beneficiaries have designated the PAAD program as their Authorized Representative, PAAD will automatically enroll all beneficiaries eligible for Transitional Assistance in the Medicare Prescription Drug Discount Card Program. The PAAD program will permit the beneficiary an option to “opt-out” of the Medicare Discount Card Program or select another discount card of their choosing, if they so desire.

The proposed amendments outline in detail the policies and procedures concerning the coordination of benefits, administration and enrollment of certain PAAD beneficiaries in the Medicare Prescription Drug Discount Card and Transitional Assistance Program.

More seniors and disabled New Jersey residents will receive financial benefits when their prescriptions are purchased through PAAD and coordinated with the Medicare Prescription Drug Discount Card and Transitional Assistance. In general, these individuals should experience better health, longer life and a better quality of life.

Those beneficiaries who receive both Transitional Assistance and PAAD will experience a reduction in their PAAD co-payment when their prescriptions cost less than \$50.00. This is because Transitional Assistance beneficiaries pay five percent or ten percent of the cost of the prescription, as compared to paying a \$5.00 co-payment. Therefore, the PAAD beneficiaries would pay a \$5.00 co-payment or sometimes less.

Economic Impact

There will be a reduction of PAAD expenditures beginning in Fiscal Year (FY) 2005 and increasing in FY 2006 as Medicare drug coverage is used as primary coverage and PAAD as secondary coverage. PAAD will cost-avoid prescription claims for all PAAD beneficiaries eligible for Transitional Assistance under the Discount Card Program. Depending upon drug usage, the savings could be approximately \$90 million. An additional benefit is that prescriptions will be more affordable for those who are eligible for discounts through the Medicare Prescription Drug Discount Card and Transitional Assistance Program and the PAAD program. Those with incomes below 100 percent of the poverty line pay a five percent co-payment and those with income below 135 percent of the poverty line pay a ten percent co-payment under the Transitional Assistance benefit of the Medicare Discount Card Program. These PAAD beneficiaries will pay the lower of five percent or ten percent of the drug cost, or the \$5.00 PAAD co-payment, whichever is less. Pharmacies may experience additional business since more prescriptions may be dispensed.

Federal Standards Statement

The proposed amendments do not exceed Federal standards at 42 C.F.R. 403.800 et seq., but incorporate the Federal standards into N.J.A.C. 8:83. Accordingly, no Federal standards analysis is required.

Jobs Impact

The purpose of the proposed amendments is to explain that PAAD beneficiaries have appointed PAAD as their “authorized representative” as defined in these amendments. The proposed amendments also describe the implementation of automatic enrollment of PAAD beneficiaries and coordination of benefits between the Medicare Prescription Drug Discount Card and Transitional Assistance Program and the PAAD program.

The proposed amendments will not expand the regulated universe to include persons or businesses not currently regulated by the Department. Accordingly, the proposed amendments are not anticipated to have any impact on employment and jobs in New Jersey, including the generation or loss of jobs.

Agriculture Industry Impact

The proposed amendments are not anticipated to have any impact on the agriculture industry.

Regulatory Flexibility Statement

The proposed amendments do not impose reporting, recordkeeping or other compliance requirements on small businesses, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules establish requirements pertaining to eligibility of, and benefits to, individuals under the PAAD program.

Smart Growth Impact

The Department does not expect this rulemaking to have any impact on the State's achievement of smart growth or implementation of the State Development and Redevelopment Plan.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

8:83-2.1 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise:

“Authorized representative” means a person with legal authority to act on behalf of an individual in making decisions related to the individual’s enrollment in, disenrollment from, and access to negotiated prices and Transitional Assistance under the Medicare Prescription Drug Discount Card and Transitional Assistance Program as defined by 42 C.F.R. 403.802.

“Medicare-endorsed prescription drug discount card program,” “endorsed program,” or “endorsed discount card program” means any prescription drug discount card program that has received Medicare endorsement and whose endorsed sponsor has entered into a contract with CMS.

“Medicare Prescription Drug Discount Card and Transitional Assistance Program” or “Medicare Drug Discount Card Program” means the program established under section 1860D-31 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, Pub. L. 108-173, Dec. 8, 2003.

“Transitional Assistance” means a subsidy that transitional assistance enrollees may apply toward the cost of covered discount card drugs in the manner described in 42 C.F.R. § 403.808(d).

8:83-5.6 Responsibilities in the application renewal process

(a)-(b) (No change.)

(c) The applicant or beneficiary has the responsibility to:

1. Complete the PAAD eligibility application/renewal application form(s) legibly and accurately:
 - i. (No change.)
 - ii. Presenting all necessary evidentiary documents, **including a copy of any third party health insurance cards and/or Medicare prescription benefits coverage cards;**
 - iii.-v. (No change.)
- 2.-5. (No change.)
6. Complete his or her renewal application in person if selected as part of a sample group by PAAD. PAAD eligibility will not be renewed if the beneficiary refuses an in-person eligibility review; [and]

7. If the application mailed by PAAD is lost in the mail, misplaced or not received due to the applicant's change of address, it is the applicant's responsibility to contact PAAD for a new application[.] ;and

8. If the applicant does not wish the PAAD program to act as his or her "authorized representative" for the purpose of coordinating Medicare and PAAD benefits, it is the applicant's responsibility to file a written "opt-out" letter with the program.

(d) (No change.)